SMB 7/18/08

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA, Plaintiff, v. **Cesar PEREZ-Real,** Defendant.	'08 MJ 2196 Magistrate Case No.______ COMPLAINT FOR VIOLATION OF Title 8, U.S.C., Section 1326 Attempted Entry After Deportation Title 18, U.S.C. § 1544 Misuse of Passport

FILED
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CLERK US DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA
BY VNX DEPUTY

The undersigned complainant being duly sworn states:

Count 1

On or about **July 17, 2008**, at the Otay Mesa Port of Entry, within the Southern District of California, defendant **Cesar PEREZ-Real**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, attempted to enter the United States with the purpose; i.e. conscious desire, to enter the United States at the **Otay Mesa Port of Entry**, without the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8, United States Code, Section 1326.

Count 2

That on or about **July 17, 2008**, within the Southern District of California, defendant **Cesar PEREZ-Real** did knowingly and willfully use a passport issued or designed for the use of another, with the intent to gain admission into the United States in the following manner, to wit: Defendant applied for entry to the United States by presenting U.S. passport number 710093304, issued to Evaristo Daniel Vigil Ramirez to a Department of Homeland Security, Customs and Border Protection Officer, knowing full well that he was not to Evaristo Daniel Vigil Ramirez, that the passport was not issued or designed for his use, and that he is not a United States citizen entitled to a U.S. Passport.

And the complainant states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT
Sara Esparagoza, United States Customs and Border Protection Enforcement Officer

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 18th DAY OF **July, 2008**.

UNITED STATES MAGISTRATE JUDGE
CATHY ANN BENCIVENGO
U.S. MAGISTRATE JUDGE

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PROBABLE CAUSE STATEMENT

On July 17, 2008, at approximately 1355 Hours, **Cesar PEREZ-Real (Defendant)** applied for admission to the United States at the Otay Mesa Port of Entry via the pedestrian primary lanes. Defendant claimed United States citizenship to a Customs and Border Protection (CBP) Officer, presented a United States Passport bearing the name Evaristo Daniel Vigil Ramirez and stated he was going to San Diego, California. The CBP Officer noticed the photo on the United States Passport did not resemble Defendant and suspected Defendant was making a documented false claim to United States citizenship. The CBP Officer subsequently referred Defendant to secondary for further inspection.

In secondary, a CBP Officer queried Defendant's fingerprints through the Integrated Automated Fingerprint Identification System (IAFIS) and Automated Biometric Identification System (IDENT). IAFIS and IDENT identified Defendant as a citizen of Mexico and a previously removed alien.

Queries through the Immigration Central Index System (CIS) and the Deportable Alien Control System (DACS) reveal Defendant was ordered deported by an Immigration Judge on or about September 7, 1995 and was physically removed from the United States on or about July 14, 2008. Immigration records indicate Defendant has neither applied for nor received permission from the United States Attorney General or the Secretary of Homeland Security to legally reenter the United States.

During a videotaped interview, Defendant was advised of his Miranda rights and elected to answer questions without the benefit of an attorney present. Defendant stated that he is a citizen of Mexico by birth in Tijuana, Baja California, Mexico. Defendant stated he was going to Fresno, California to be with his family. Defendant admitted that he had presented a United States passport belonging to another person.